

REMARKS/ARGUMENTS

Applicant has amended the claims to emphasize the differences between the claimed skylight and the greenhouse tray cover of U.S. Patent No. 4,236,350 (the "Hasselbach reference"), thereby advancing prosecution. Support for these claim amendments may be found throughout the specification. Specifically, support for Claim 25, as amended, and for new Claim 44 may be found, e.g., in paragraph 30. Support for new Claims 45-48 may be found, for example, in paragraphs 28 and 29. Support for new Claims 49-59 may be found, for example, in paragraph 24.

The Examiner rejected Claims 25-27 and 29-42 as anticipated by Hasselbach. Under 35 U.S.C. § 102, to anticipate a claim a reference must disclose each and every element of the claim. See also MPEP § 2131. Among other things, the Hasselbach reference does not disclose the newly added limitation that requires 33% of the surface area of the corrugation to be capable of transmitting sunlight having a low angle of incidence relative to the base. Because the reference does not disclose each and every limitation of amended claims 25-27 and 29-42, Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Office Action also states that the ribs 34 of Hasselbach are angled and capable of being oriented perpendicular to sunlight having a low angle of incidence, in a similar manner to the corrugations of the instant claims. Hasselbach's description of the ribs shows that they are not capable of such use. As noted in Column 3, lines 10 through 20:

In order to provide adequate stiffness, a plurality of ribs 34 are formed *transversely* of the cover and extend continuously from one side wall across

the top 33 and down the remaining side wall. The ends 31 and 32 are also provided with stiffening ribs 35. The stiffening ribs 35 on the end walls 31 and 32 also extend to the edge of the flange 31' and beyond the flange 11' surrounding the edge of the base 11 as shown more specifically in FIG. 4 in order to provide vent openings 36 for the flow of air to ventilate the greenhouse. At the same time, the cover prevents or at least minimizes evaporation of moisture. (Emphasis added.)

Hasselbach clearly provides a structural function for the "stiffening ribs," specifically, a function of providing strength to the cover, as well as ventilation at the edges. There is no teaching that the Hasselbach ribs could be modified in the manner of the claims to provide a substantial capture of low incidence light. Hasselbach thus teaches away from the claimed use, and provides no motivation for adapting the ribs for a different purpose.

The Examiner rejected Claim 43 under 35 U.S.C. Section 103(a) as obvious over the Hasselbach reference. Applicant cancelled Claim 43 but has added other claims that recite end portions that slope toward the apex at various angles, including a 45 degree angle relative to the base. Applicant will address this rejection, as it relates to newly added Claim 52.

To establish a *prima facie* case of obviousness, the prior art reference must teach or suggest all the claim limitations, there must be some motivation or suggestion to combine the references, and there must be a reasonable expectation of success. See MPEP § 2142, "Establishing a *prima facie* case of obviousness." As the Examiner notes, Hasselbach does not disclose side walls sloped at an angle of about 45 degrees relative to the base. The Examiner, however, asserts that such angling of the side walls was an obvious design choice.

Applicant respectfully disagrees. Hasselbach does not provide motivation to angle the side walls to about 45 degrees relative to the base. Unlike the claimed building skylight, which is designed to maximize light capture, the seedling greenhouse tray cover of Hasselbach is part of an improved, durable greenhouse tray designed to optimize water distribution and seedling growth. Hasselbach teaches away from angling the side walls as such angling would be impractical and would compromise the goal of maximizing seedling growth. Figure 5 of Hasselbach shows a seedling situated at the edge of the seedling tray. If the side wall sloped toward the base at an angle greater than that shown in the figure, it would substantially restrict the area of the base 11 which can be used for the seedling grid 13, as an angled cover would interfere with the growth of seedlings located at or along the edges of the grid.

In addition, as noted in Applicant's previous response to office action, dated July 26, 2005, according to MPEP § 2141.01 (a), in order to rely on a reference as the basis for an obviousness rejection, "the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.' (Citations omitted.)" See also, *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992). In newly added Claims 49-59, the building skylight limitation is part of the claim body rather than part of the preamble. This amendment clarifies that the greenhouse tray of Hasselbach is not analogous to the claimed skylight and, therefore, cannot be the basis for a rejection under Section 103. For all of the above reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

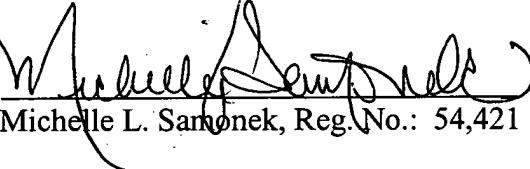
Based on the foregoing amendments and remarks, Applicant respectfully submits that the application is now in condition for allowance and respectfully requests that the Examiner pass this application to issue. Although Applicant does not believe this submission requires a fee, if Applicant is mistaken, any required fees may be charged to deposit account 50-2767.

If the Examiner has any questions regarding this communication or feels that an interview might facilitate prosecution of the application, he is invited to contact the undersigned at (916) 325-4553.

Respectfully submitted,

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By:


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